

CITY OF FULLERTON

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<i>Population:</i>	109,000
<i>1990/91 General Fund</i>	
<i>Revenues:</i>	\$42 million
<i>Fund Balance:</i>	\$5 million
<i># URM's:</i>	125
<i>Type of URM's:</i>	99% commercial 1% residential
<i>Ordinance Type:</i>	mandatory retrofitting
<i>Retrofit Incentives:</i>	no interest loans
<i>Funding Source:</i>	redevelopment agency

BACKGROUND

The City of Fullerton is located in Orange County approximately 20 miles southeast of Los Angeles along the I-5 corridor and State Highway 91. Incorporated in 1904, the City of Fullerton owes its past economic growth to the acres of orange groves that could once be found around the city and the oil that was found beneath the city. Today, the city boasts more than 6,000 businesses and industries, with a total work force in excess of 71,000.

ORDINANCE

The Fullerton city council adopted a mandatory seismic retrofit ordinance in December 1990. The ordinance is based on the Los Angeles model and has been incorporated into the Fullerton building code. The ordinance applies to all buildings constructed prior to 1934 and establishes four rating classifications: essential buildings, high-risk buildings, medium-risk buildings and low-risk buildings. The deadline for compliance under this ordinance was February 1992.

This ordinance also requires the building official to file with the county recorder a certificate stating that the subject building is within the scope of Chapter 88 - Earthquake Hazard Reduction in Existing Buildings. As a matter of policy, no such certificates were filed until a structure was in violation of the council approved deadline for compliance. This ordinance does not require

alteration of existing electrical, plumbing, mechanical or fire safety systems unless they constitute a hazard to life or property as determined by the building official.

The City of Fullerton has a separate ordinance requiring the retrofit of concrete tilt-up buildings. This ordinance, Chapter 89, applies to all buildings constructed prior to April 6, 1974 with concrete tilt-up bearing walls. This ordinance also requires the building official to file with the county recorder a certificate stating that the subject building is within the scope of Chapter 89.

INCENTIVE PROGRAM CONCEPT

Fullerton's Seismic Rehabilitation Loan Program was approved by the redevelopment agency in May 1991. This loan program was developed to finance seismic retrofit projects using tax increment funds from the city's redevelopment areas. Fullerton has designated two redevelopment areas - the Orangefair and the Central Redevelopment Projects Areas - which cover approximately 1.5 square miles of the city. Properties eligible for funding under this program include all commercial unreinforced masonry (URM) parcels or apartment buildings with five or more units that are located in either of the city's designated redevelopment areas and were identified in Fullerton's Unreinforced Masonry Survey. (The loan program is not offered for retrofit of concrete tilt-up structures.) There is also a retroactive financing clause which allows for the reimbursement of a portion of the "soft" cost of engineering retrofitting, title and insurance costs and push tests performed before the loan program was established. The availability of these funds is limited to the seismic retrofit of brick buildings in the designated redevelopment areas. The size of the loan is based on the extent of the seismic retrofit project.

The loans offered by the redevelopment authority to URM owners performing retrofit work are two-tiered. The first \$25,000 of the amount needed is a deferred, no-interest loan due on sale or transfer of title of the structure. The redevelopment authority will then finance 50% of the remaining cost of retrofit which is repaid over a 10 year period with principal payments starting two years after the project is completed. There is no established ceiling on the amount of matching loan which will be made.

The redevelopment authority oversees this loan program. The redevelopment authority takes bank-like precautions before making a loan such as running a title check on the structure, running a credit check on the owner and establishing that the loan-to-value ratio for the structure does not exceed 70%. The redevelopment authority also requires that 3 bids be submitted for the work and that the lowest bid be accepted. (The least expensive of the retrofits have come in at about \$12/square foot but others have cost considerably more than that.) As with most funding programs, Fullerton's system is based on reimbursement. The building owner must submit receipts for work done in order to draw down loan funds. This system allows contractors to be paid on a periodic basis.

PROGRAM RESOURCE REQUIREMENTS

The redevelopment authority has made 6 loans, totalling \$325,000, to date and has another 6 loans, totalling \$225,000, in the approval process. The city expects the demand for such funding to greatly increase. The redevelopment authority is concerned that the amount of tax increment funds available will not be sufficient to finance all the work required and that Fullerton is in danger of running out of funds for this program in the near future. A worst case scenario is that the amount of work necessary to completely address the seismic hazard in Fullerton will total approximately \$5 million.

The seismic retrofit loan program is directly related to the general rehabilitation program of the redevelopment authority. In fact, the redevelopment authority finds itself in a difficult position regarding buildings that were given rehabilitation loans prior to the passing of the URM Law. Some of the buildings with outstanding rehabilitation loans are seismically deficient which puts the authority in a situation, similar to that in which many banks find themselves, of being first lienholder on a structure in danger of becoming rubble in the next big earthquake. The redevelopment authority has identified these buildings and aggressively marketed the seismic retrofit loan program to their owners in an attempt to obtain some additional security for the rehabilitation loans.

PROGRAM DEVELOPMENT

After the URM Law was passed by the State Legislature, the affected departments met with the Fullerton City Manager to discuss the city's approach to compliance. It was decided to pursue a mandatory retrofit program but to put an emphasis on restoring historical structures and preserving the historical fabric of the community through the use of the redevelopment authority. Before the ordinance was adopted, the city held a number of public meetings. There was a general meeting and then a number of smaller meetings targeted at URM owners, senior citizens, property owners in the redevelopment areas, etc. After the ordinance was adopted another series of meetings took place, particularly with the Chamber of Commerce. These meetings were held in an effort to calm some of the fears about the proposed program and to emphasize that the retrofit costs would not be as high as rumored.

There was clearly a realization among the Fullerton agencies involved in the enforcement of the retrofit ordinance that cooperation among themselves would be key to the success of the program. This sense of cooperation among city departments overflowed and created a sense of cooperation with URM owners. The Building Department has developed a very cooperative working relationship with URM owners. The use of the building and its historical significance are taken into consideration when developing the scale of the project. The Building Department considers

each building on a case by case basis when determining the extent to which other life safety and fire protection upgrades must be made. The Building Department has also adopted a policy allowing property owners to establish temporary offices in trailers on the project premises which can allow tenant businesses to continue to operate during the retrofit period.

PROGRAM EFFECTIVENESS

Owners of approximately 100 of the city's 125 URM's have either retrofitted their structure or submitted plans for proposed retrofitting. The owners who missed the original deadline but have since displayed some effort are being given an unofficial extension. Of the remaining buildings, owners of only 11 buildings have provided absolutely no indication that they are addressing the issue of seismic retrofitting. If the owners of these buildings have still done nothing 6 months after the deadline for compliance, their buildings will be "red-tagged" and ordered vacated.

To date 3 URM retrofits have been completed, 8 URM retrofits are under construction and 45 retrofit projects are in the plan check stage. Of the 220 tilt-up structures identified by the city, only 11 have not yet complied with the retrofit ordinance.

PROGRAM STRENGTHS

Any time a city has the means to provide some financial assistance to URM owners, it must be considered a program strength. The strong local economy and the pro-redevelopment attitude of Fullerton both add to the strength and success of Fullerton's retrofit program. It appears that the City of Fullerton's ability to deal with its URM owners in a very personalized manner is also a major strength of its retrofit program.

KEYS TO SUCCESS

There is a great deal of cooperation among the different departments involved in the retrofit program. Fullerton's Development Services Department and redevelopment authority have both been involved with the retrofit program since its inception and continue to work together closely on enforcement of the ordinance. The city also has a high level of professional expertise in-house, as exhibited by its ability to proceed with a tilt-up retrofit ordinance prior to the State of California legally requiring such retrofits.

EXHIBITS

- Seismic Loan Program - Loan Program Guidelines

CONTACTS

Chuck Daleo	Fullerton Building Official	(714) 738-6558
Rick Forintos	Project Coordinator - Fullerton Redevelopment Agency	(714) 738-6877

CITY OF FULLERTON

EXHIBITS

SEISMIC LOAN PROGRAM

Loan Program Guidelines
January 1992

Section

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EXHIBITS

- ELIGIBLE PROJECT AREAS
- APPLICATION
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SECTION 1 BACKGROUND AND PURPOSE

The Redevelopment Agency approved the Seismic Rehabilitation Loan Program on May 7, 1991, for the Orangefair and Central Redevelopment Project Areas. The program was adopted to assist and encourage commercial property owners to seismically upgrade their unreinforced masonry buildings to conform to the Seismic Ordinance. Apartments with five units or more are also eligible if they are unreinforced masonry.

SECTION 2 AMOUNT OF AVAILABLE ASSISTANCEInterest-Free Commercial Loans

Up to \$25,000 ⁽¹⁾	100% Agency Loan, deferred, and due on sale with no interest charge.
From \$25,001 and up (1)	This amount is on a 50/50 matching basis between owner and Agency. The loan repayment schedule begins two years after building completion, to be repaid in ten annual payments, with no interest.
Churches	Churches are eligible for 25% of total project costs not to exceed \$100,000 to be fully repaid over 10 years starting two years after building completion.

SECTION 3 DEFINITIONS

Eligible Projects - All seismically deficient buildings as identified in the City of Fullerton's Unreinforced Masonry Study conducted in 1990. However, larger projects which are receiving substantial Agency assistance are not eligible for seismic loans unless specifically approved by the Agency.

Development Standards - Architectural guidelines for the downtown project area are contained in the CBD Guidelines booklet. All plans for buildings in either project area, when the seismic work has a visual impact on the building, are to be reviewed and approved by the Redevelopment Design Review Committee.

Owner Participation Agreement - All property owners must have an OPA approved by the Redevelopment Agency. This Agreement contains all of the terms and conditions applicable to the project, project scope, and the chosen bidder's cost breakdown. In addition, there are requirements for insurance, title policies, and non-discrimination clauses which must be followed.

Program - The Seismic Rehabilitation Loan Program as approved by the Redevelopment Agency on May 7, 1991.

¹ ADJACENT PARCELS OWNED BY THE SAME OWNER ARE NOT CONSIDERED SEPARATE LOANS. THE AGENCY LOAN IS DEFERRED ON THE FIRST \$25,000 OF PROJECT COSTS WITH 50/50 MATCH OVER \$25,000.

SECTION 4 ELIGIBLE PROPERTIES AND PROJECTSA. Eligible Properties

Properties eligible for inclusion in the Program shall include all commercial parcels or apartments of five units or more within the boundaries of the Central Redevelopment Area and the Orangefair Redevelopment Area as identified in the City of Fullerton's Unreinforced Masonry Study conducted in 1990¹. Also, those owners who have already started or completed seismic work, retroactive to March 6, 1990, may be reimbursed for those expenses if the work was done in conformance with Fullerton Seismic Ordinance requirements.

B. Eligible Work

Work eligible for Agency participation shall include the following as a minimum:

Interior or exterior repair or replacement in order to mitigate any unsafe or dangerous structural conditions as identified in the City's Unreinforced Masonry Study or such subsequent repairs as required by the Building Department. Such seismic work shall be in compliance with the architect's plans as approved by the Building Department and the RDRC. Seismic work which is performed in conjunction with new construction or which is done in conjunction with demolition or removal of more than 25% of the existing exterior walls is not eligible for this program.

Specific eligible costs may include, but are not limited to, the following:

Architectural plans and structural calculations², new concrete footings or strengthening of existing footings, floor/wall anchoring, roof diaphragm/shear transfer, diaphragm chords, interior shear walls, crack repair, tuckpointing, strengthening wall parapets or projecting sign boards and reroofing, replastering and patching or replacing stucco or brick which is damaged as a part of the seismic strengthening.

SECTION 5 SUBORDINATION

All loans shall be secured by a Deed of Trust listing the Redevelopment Agency as beneficiary and the City of Fullerton as trustee. The Agency is willing to take a position as a junior lienholder; however, if insufficient security exists to protect the Agency's interest in the property, then the loan amount may be reduced or the loan denied. Specifically, the Agency will agree to subordinate its seismic loan to construction or permanent financing or refinancing for a more favorable interest rate without requiring repayment. The Participant's request for subordination for refinancing or other reasons shall be reviewed and determined in the sole discretion of the Agency which approval shall not be unreasonably withheld. The Agency, when revising the subordination request, prefers that the total of all liens shall not exceed 70% of the total loans to the appraised fair market value of the appraisal of the property. When the

¹ Except Concrete Tilt-up.

² Owner can include these as project costs for reimbursement after Agency loan is funded.

SECTION 5 (continued)

estimated property value begins to approach 50% loan to value including the Agency's proposed loan, an appraisal may be required to determine the actual appraised market value of the property (see SECTION 11).

SECTION 6 APPLICATION PROCEDURES, APPLICATION REVIEW, AND APPROVAL OF LOAN

1. Applicant shall discuss the proposed project with the Redevelopment staff and Building Department in order to develop the scope of the project.
2. Applicant shall fill out a seismic application, available from the Redevelopment Office, 303 West Commonwealth Avenue, Fullerton, CA 92632.
3. Review of the application, project, and plans will include the following:
 - A. Availability of Agency funds for this and other projects.
 - B. Is the building on the Historical Building Survey or a designated Local Landmark?
 - C. Severity of seismic problem.
 - D. Has the exterior of the building been previously remodeled and does the Agency already have a Rehabilitation Loan on the property?
 - E. Has the owner already spent money to do seismic work, are plans completed, and is the owner ready to start the project?
 - F. Are the total loans, including the Agency loan, not in excess of 80% of the building's fair market appraisal?

SECTION 7 POST APPLICATION APPROVAL CHRONOLOGY AND BIDDING REQUIREMENTS

1. After the application has been accepted, the applicant and Agency staff shall meet with the owner's designer(s) regarding the conceptual plans for the project. The owner and his contractors shall use the Secretary of the Interior's Standards in designing and constructing the improvements and in the repair of any damage caused by the seismic work. Design professionals and contractors should be chosen based on their familiarity with these Standards and their verified rehabilitation experience on similar types of buildings. The Agency and Development Services prefer the Hilti fastening system and that the primary street exterior of the building shall not be penetrated with support flanges of any type. Exceptions to this rule will be reviewed by the Development Services Department.
2. Once conceptual plans are prepared, the applicant shall process the plans through all applicable City of Fullerton review procedures, including the RDRG if repairs impact the exterior of the building or historic or architectural features considered to be significant.

SECTION 7 (continued)

3. Two written bids are required to determine the cost of the project. The owner shall select the lowest responsible bidder. An applicant may build a project by using: a) a general contractor, b) a managing contractor on a fee basis, or c) by acting as an owner/builder.

- a. If a general contractor is used, two overall bids shall be provided in sufficient item detail to allow the Agency staff to determine that a substantially similar character of work was bid by all contractors submitting proposals. The more complex projects shall require an owner to employ a General Contractor unless it can be demonstrated that the owner or his representative has sufficient time and expertise to run the project.
- b. In the case of a managing contractor employed on a fee basis, at least two bids for each subcontracted trade used shall be required in addition to a statement of the fee to be paid to the managing contractor. The fee paid shall not exceed the then prevailing industry standard for construction management fees.
- c. If the applicant acts as an owner/builder, a cost estimate for each item of work to be performed by the owner/builder's own forces shall be provided, itemized by labor and material. If the applicant also utilizes the services of subcontractors to complete the rehabilitation, then at least two bids must be provided for any such subcontracted work. If the Agency staff questions the cost estimate of any owner/builder items not subcontracted, then the staff may request that the owner/builder provide two comparison bids for the work in question.

4. Once plans have been approved by the Building Department and bids solicited, the Agency staff shall schedule the item for the next available Agency meeting agenda. The Owner Participation Agreement shall be executed by the applicant prior to the Agency meeting. In addition to the basic agreement (attached to these guidelines in Appendix A), the following attachments to the Owner Participation Agreement will require the applicant's signature prior to the Agency meeting and are also included in Appendix A:

Attachment C: Short Form Deed of Trust
Attachment D: Promissory Note
Attachment E: Contractor's General Liability Insurance, Workmen's Compensation Insurance and Owners Fire Insurance Policies
Attachment F: Memorandum of Agreement

A Lender's Policy of Title Insurance shall be provided to protect Agency from subsequent liens or claims.

5. After Agency approval and recordation of the Deed of Trust, the applicant may apply for reimbursement of eligible expenses. Under certain extenuating circumstances, the Agency may approve agreements after commencement of construction and may approve reimbursement of prior expenditures as long as they constitute eligible rehabilitation expenses as described in Section 3.B of the guidelines.

SECTION 8 DISBURSEMENT OF LOAN FUNDS

In order to draw down loan funds, the applicant shall submit the following items to the Redevelopment Office:

1. Participant's request for progress payment.
2. Paid invoices for the amount of eligible work.
3. Labor and material lien releases for all invoices submitted.
4. Under the owner/builder option, the applicant shall be reimbursed upon presentation of paid invoices for all materials and certified payrolls for all labor charges, up to the amount of the estimate for the work as discussed in Section 7, Item 3.C. above.

Reimbursement of eligible expenses shall be 100% of the first \$25,000 of eligible costs based on invoices submitted for payment, less a 10% retention. Amounts in excess of \$25,000 shall be reimbursed at 50% of eligible costs, less a 10% retention, until the maximum amount is reached. The retention shall be released to the applicant not earlier than 30 days after a Notice of Completion has been filed with the County Recorder's office.

SECTION 9 LOAN PAYBACK

Loan payback shall be made pursuant to the terms as contained in the note. The Agency may approve deferral of payback in the event of refinancing or other reasons acceptable to the Agency.

SECTION 10 SUBSEQUENT LOANS

If the scope of an approved project is expanded after construction has begun, an increase in the loan amount for eligible activities up to the stated limits of the program may be granted at the sole discretion of the Agency.

Should loan terms and amounts allowed under the program be changed subsequent to approval and disbursement of loan funds to an applicant, the applicant may reapply for an additional loan. A new application under the revised terms will be considered provided that additional work is being proposed. Only one reapplication under the terms of this section will be considered. Costs of work previously completed shall not be included in the reapplication.

SECTION 11 APPRAISAL

For projects with an Agency Loan over 50% loan to value (including senior loans), an appraisal may be required at Agency's option. The appraisal, if required, will be reviewed by the City of Fullerton's real estate office to determine its adequacy and conformance to industry standards.

SECTION 12 PARTICIPANT'S FUNDS

Participant's funds shall be available to complete participant's portion of project and be set aside exclusively for this project.

SECTION 13 TITLE REPORT

All projects shall require a title report to verify liens, easements and other matters of record, etc. and to insure the Agency's loan. The City of Fullerton has a contract with Commonwealth Land Title Company (CLTC) for title reports and the Agency shall utilize CLTC for its seismic loan program. The applicant will be required to pay for these services directly and can be reimbursed later on from loan proceeds after the loan records.

CITY OF LONG BEACH

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<i>Population:</i>	430,000
<i>1990/91 General Fund</i>	
<i>Revenues:</i>	\$224 million
<i>Fund Balance:</i>	\$11 million
<i># URM's:</i>	560
<i>Type of URM's:</i>	90% commercial 10% residential
<i>Ordinance Type:</i>	mandatory retrofitting
<i>Retrofit Incentives:</i>	long-term financing at 11.3%
<i>Funding Source:</i>	Special Assessment bond issue

BACKGROUND

The City of Long Beach, fifth largest city in California, encompasses a 50-square mile coastal area located on the southern edge of Los Angeles County. The city is known both as a major industrial center and as a popular beach resort area hosting a substantial tourist and convention business. Long Beach historically has been a leader in the area of seismic safety. In response to its losses in the 1933 earthquake, the city adopted the toughest building code in the nation. Its present day ordinance exempts all structures built after 1934. The City of Long Beach has been pursuing the seismic retrofit of hazardous buildings in its community for many years.

HAZARDOUS BUILDINGS PROFILE

Despite its longstanding concern for seismic safety, in 1989 the city still contained approximately 560 unreinforced masonry buildings (URMs). The majority of the buildings are commercial in use.

ORDINANCE

The city first adopted its seismic ordinance in the late 1970s. At that time the seismically hazardous buildings were divided into three categories:

- most dangerous:* these buildings were ordered repaired immediately or torn down
- more dangerous:* these buildings were given until 1985 to be brought up to code or demolished
- least dangerous:* these buildings were given until January 1991 to be brought up to code or torn down (on 1/1/91 the owners of these remaining buildings were served with a notice that they had 60 days to develop a plan for compliance and submit it to the Building Inspection Department).

By the end of the 1980s owners of buildings in the first two categories had complied with the ordinance. The city did not provide these owners with any financial or other incentives. There remained to be addressed those buildings categorized as *least dangerous* by the ordinance.

INCENTIVE PROGRAM CONCEPT

Long Beach's program provided participants with long-term financing at the then-market interest rate of 11.3%. Initially, the city allowed a 3 month period in which property owners could apply for participation in the program. The application period was subsequently extended by 4 months. Property owners interested in participating submitted to the city, for review by its Superintendent of Building and Safety, a report prepared by a California licensed engineer or architect. In general, each report provided for the roof and floors of the building to be bolted to the adjoining walls, for the interior and exterior walls to be reinforced, and for provisions allowing existing usage and occupancy to be maintained and restored. The owners' parcels were then examined to determine their estimated and/or appraised values, and tax rolls were checked to ensure that none of the owners was delinquent in property tax payment. (See: PROGRAM DEVELOPMENT)

Of the 319 parcels for which applications had been submitted, 28 parcels were unable to qualify for the financing because of current year tax delinquencies. Approximately 30 dropped out prior to confirmation of assessments for unrelated reasons. Interestingly, none of the applicants failed to meet the value-to-lien requirement. (See: PROGRAM DEVELOPMENT) A total of 307 parcels were finally included in the assessment district, representing 137 structures or about one quarter of the city's remaining URM's. The parcels in the district are geographically dispersed throughout the city, with the majority located in the city's

downtown area. Of the 307 assessed parcels, 170 are concentrated in 3 multiple-unit buildings. Not all of the units in those buildings are included in the district.

In order to effect the financing Long Beach had to take certain legal steps. The first action the city took was to amend its municipal code so that it had the power to form the assessment district, levy the assessments, and issue the bonds. (See: PROGRAM DEVELOPMENT) The city next adopted a resolution of intention to proceed, and gave preliminary approval to the Assessment Engineer's report which contained estimates of project costs and per parcel assessments. Two months later the council adopted another resolution allowing an additional 65 properties to be included in the district. The council then held a public hearing and, as no protests were received, adopted a resolution establishing the district, authorizing the projects and confirming and levying the assessment for each parcel. Seven months later the bonds were issued and money was placed in an Improvement Fund awaiting disbursement to participating owners.

To receive bond funds an owner must submit to the city a certificate stating that eligible improvements have been completed and that the cost of those improvements is eligible for reimbursement. The certificate must be signed by the owner and the City Treasurer. Owners may either request reimbursement upon completion of seismic related work, or may request that progress payments be made directly to the contractor as construction progresses. However in the case of multi-unit buildings, to ensure that all necessary improvements to the building will be completed, no funds will be disbursed to owners represented in the district until the owners of units who chose not to participate in the district have secured alternative financing.

Undertaking and completing projects is the sole responsibility of individual property owners. All owners must submit final building plans to the city and obtain all the usual permits. Owners individually contract and arrange for the projects' construction, and any cost overruns are the sole responsibility of the owner. No provisions were made in the bond issue for financing such overruns. The time allotted for completion of all the projects is approximately two years. If there are bond proceeds remaining at the end of that time (perhaps because owners who participated in the district ultimately chose not to undertake the improvements, because final costs were under the amounts determined in preliminary estimates, or because they did not satisfy the city's requirements for release of the funds) these proceeds will be used to prepay the bonds.

The bonds are repaid through assessment liens against all the parcels included in the district. Assessment installments are payable in the same manner and time as general taxes on real property. Note that the assessments represent liens against parcels, not personal indebtedness of property owners.

The annual assessment billed against each parcel represents a pro rata share of the total principal and interest of the bonds coming due that year. The assessments in aggregate are sufficient not only to pay for the estimated costs of the seismic improvements, but also to cover related incidental expenses. These incidental expenses include the city's costs of developing and administering the program. Ongoing expenses payable from the bond issue include the cost to the city of monitoring construction, administering payments under construction contracts, and engineering expenses (See: PROGRAM RESOURCES). In addition to the basic assessment on each parcel, the city may levy an annual assessment to pay specified costs incurred by the city which are not covered by the basic assessment. These costs would arise from administration and collection of assessments, or administration and registration of the bonds. The additional annual assessment is capped at \$150 per parcel adjusted for inflation.

The bonds issued by Long Beach are secured by the assessments levied against the parcels. The assessment liens are on parity with all general and special tax liens. They are subordinate to pre-existing Special Assessment liens, but take priority over future fixed Special Assessment liens. Most importantly the assessment liens take priority over all existing and future private liens, including bank loans and mortgages.

Failure of an individual property owner to pay an assessment installment will not increase the assessments against other parcels. Generally, property securing delinquent assessment installments in California is subject to sale in the same manner as property sold for non-payment of general property taxes. However, Long Beach has covenanted that it will commence judicial foreclosure proceedings against parcels with assessment installments which are more than two years delinquent. It also will commence such proceedings against all delinquent parcels, even those delinquent for less than two years, in the event that the total of installments received by the city is less than 95% of the amount due. When insufficient assessments are received to make interest and principal payments on the bonds, amounts in the reserve fund are drawn down to make up the deficiency (See: PROGRAM RESOURCES). The city does have the option of deferring foreclosure proceedings if the reserve requirement is met, i.e. if the city chooses to advance monies to replenish the reserve fund.

PROGRAM RESOURCES

Four different city departments were involved in developing Long Beach's program: Community Development, the City Treasurer's office, the City Attorney's office and the Planning and Building Department. In addition, the Rehabilitation Officer spent a great deal of time with individual URM owners. The services of a financing team (financial advisor, bond counsel, and underwriter) were also used extensively. Long Beach estimates it cost at least \$40,000 in city staff time and other expenses to develop the program and issue the bonds. These costs, as well as the fees of the financing team, were reimbursed from the

proceeds of the bond issue. Ongoing program costs primarily involve the time of the Superintendent of Building and Safety to review and approve requests for funds, and the resources of the City Treasurer to administer the bond program and collect the assessments. The projected ongoing costs were also funded through the bond issue, and additional amounts may be collected if necessary by levying additional assessments (See: INCENTIVE PROGRAM CONCEPT).

Long Beach issued bonds in the amount of \$17.4 million to which were added approximately \$250,000 in accrued interest and owner deposits, for a total of \$17.7 million. The funds were allocated as follows:

- \$14.9 million of the bond proceeds were deposited into the Improvement Fund from which monies would be drawn to cover project costs. Monies in this fund earn interest, which is also deposited into the Improvement Fund and allocated to the projects. Together these sources were projected to supply the \$15.1 million needed to cover project costs.
- The bond proceeds also funded a \$1.7 million reserve account, required in most bond financings, which ensures that funds will be available to make timely bond payments.
- Approximately \$500,000 was borrowed to cover interest payments which needed to be made on the bonds prior to collection of assessments.
- \$450,000 was expended to pay the financing team and cover other issuance costs.
- Finally, the city received from the bond proceeds the \$40,000 to reimburse itself for monies it spent developing the program, as well as \$100,000 which it planned to use to cover ongoing administrative costs (See: INCENTIVE PROGRAM CONCEPT)

PROGRAM DEVELOPMENT

Long Beach's program might better be called an enabling rather than an incentive program. As the city had not provided any financial assistance to owners of buildings classified by its ordinance as "more dangerous" and "most dangerous," it saw no reason to provide such assistance to owners of the "least dangerous" structures. While the city ruled out any type of

subsidy program, however, it was not oblivious to the economic realities of the day. The poor real estate market, the slowing economy and the industry-wide problems of banks made it more difficult for the remaining class of owners to find private financing for retrofitting projects. The city felt that its most suitable function would be to obtain financing for the owners while steering clear of any responsibility for repayment. The best means of accomplishing Long Beach's objectives was determined to be a bond financing based upon the formation of an assessment district.

While assessment bonds of the type contemplated were commonly used by cities throughout California for other purposes, they had never before been publicly issued to finance repairs of privately owned structures. The uniqueness of this purpose made the assessment bond issuance process far more complicated than would normally be expected. New ground had to be broken on many fronts, a process which ended up taking 18 months rather than the 3 to 6 months more commonly spent on assessment financings. While developing an appropriate legal structure was challenging, the most difficult aspect of the development process involved qualifying the properties for participation in the district.

One issue which needed to be addressed was the status of applicant owners' property tax payments. As the assessments would be paid with property taxes (See: INCENTIVE PROGRAM CONCEPT), it was important to show that members of the district were current with their tax payments. To many people's surprise, it turned out that nearly one third of the applicants were delinquent on their tax payments, primarily as a result of a supplemental assessment that had been levied a number of years prior but for which the property-owners had never been billed. The screening process for owners delinquent on property tax payments caused about 12 applicants to drop out of the process.

As investors in assessment bonds are secured by the property upon which the lien is assessed, an important ratio in an assessment financing is the value-to-lien ratio. This ratio suggests to investors how much might be recouped from the sale of a property if its owner defaults on the assessment. (For foreclosure procedures see INCENTIVE PROGRAM CONCEPT) Typically, investors will require that assessment districts contain properties with minimum value-to-lien ratios of 3.0 to 1. Long Beach's financing team established a minimum 2.5 to 1 ratio, although a small number of properties with lower ratios were accepted into the district.

Typically, property values are determined by appraisal. Obtaining appraisals, however, can be expensive and time-consuming. The city's financial advisor devised a valuation method designed to minimize the number of properties for which appraisals would be required. As a first step, based on the assumption that a property's market value is always higher than its assessed value, an applicant's value-to-lien ratio was calculated using the property's assessed value. If the resulting ratio was 2.5 to 1 or higher, the property qualified for inclusion in the district.

The next test developed a proxy for market value by discounting the property's assessed value by 2% for each year since its most recent assessment, and increasing the resulting number to more accurately reflect changes in market value since the date of that assessment. The derived market value was then used to calculate the value-to-lien ratio. The procedure turned out to be extremely complex, but did attain the desired result as all but 50 parcels met the minimum value-to-lien ratio and were able to forego formal appraisals. The remaining parcels underwent a valuation process by a city approved MAI (Master Appraisal Institute) appraisal and in each case the valuation provided the necessary coverage. The following table illustrates the value-to-lien ratios of parcels which comprise the district, using both the assessed value and the derived or appraised market value.

Value-to-Lien Ratio	# Parcels (Value = Assessed Value)	% of Total Assessment	# Parcels (Value = Derived Value)	% of Total Assessment
< 1.00:1	27	15.7	0	0.0
1.00:1 to 1.99:1	32	20.9	0	0.0
2.00:1 to 2.49:1	28	11.3	5	4.1
2.50:1 to 3.49:1	49	17.5	41	26.1
3.50:1 to 4.49:1	42	10.6	29	15.4
> 4.50:1	129	24.0	232	54.4
TOTAL	307	100.0	307	100.0

In addition to evaluating owners' applications, Long Beach had to take certain steps to effect the bond issue. For legal as well as policy reasons, it was very important to make clear that the program being developed by the city was intended not to provide benefit to private owners but to address a public safety issue. Long Beach, which is a charter city, also needed to grant itself the powers necessary to form the assessment district. Accordingly, Chapter 3.52 was added to the city's municipal code specifically for the purpose of providing financing mechanisms to help lower the costs of private improvements required to be made to buildings in the city which fail to meet the minimum seismic and public safety requirements of the code. The new chapter established procedures for the issuance and sale of bonds, the formation of assessment districts, and the levying of assessments on properties, incorporating certain provisions of the Improvement Bond Act of 1915 and the Municipal Improvement Act of 1913, the acts allowing formation of Special Assessment districts (See: LOCAL GOVERNMENT FINANCING OPTIONS - SPECIAL ASSESSMENT DISTRICTS) Note that the amended

code established these procedures to assist in the financing of public safety improvements to private properties within the city, improvements which include but (theoretically) are not limited to seismic retrofitting.

PROGRAM EFFECTIVENESS

About one quarter of the city's 506 remaining URMs were included in the assessment district and will be retrofitted using the proceeds of the bond issue. Long Beach is now considering forming a second assessment district and floating another bond issue. About 40 property owners who failed to sign-up in time for the first assessment district have applied for inclusion in the second. It appears the second bond issue would be about 10% the size of the first one.

PROGRAM STRENGTHS

The primary advantage of the program to the city lies in the fact that Long Beach is able to provide owners with financing while retaining no repayment liability. Although the program does require ongoing monitoring and administration, these costs are fully covered by the assessments levied on the parcels receiving the financing. Because the program is privately financed and full financial responsibility lies with the property owners, the projects are not subject to regulations applied to public funds such as Davis-Bacon wage requirements. It is helpful too that the application process for property-owners is relatively simple and participation is optional.

KEYS TO SUCCESS

The effectiveness of Long Beach's program is likely linked to the earlier success of the city's retrofit efforts. Long Beach had a reputation for holding the line with URM owners. Buildings in the "most dangerous" and "more dangerous" categories which had failed to meet the earlier retrofit deadlines were razed by the city. This let URM owners know that the city was serious about its retrofit program.

Long Beach also has a great deal of experience in dealing with URMs. The issue is very well understood by staff, elected officials, and the public at large. As a result, very little controversy surrounded the city's development of its program.

By establishing this program, the city was merely offering an alternative to owners who could not find long-term financing. It was helpful too that the aggregate project size was large, so that the fixed costs of developing and administering the program could be shared among many owners. The city and its financing team also did a thorough job of marketing this financing option and convincing URM owners to sign up for membership in the assessment district. Having learned from its first issue, should it go ahead with the second Long Beach will pay particular attention to ensuring that owners understand fully the nature of their commitments and those of the city. The city found this to be the most difficult, yet the most crucial, aspect of the financing process.

Finally, the city showed a great deal of flexibility in its willingness to experiment with an untried method of financing. Long Beach exhibited a tremendous amount of patience as the financing team struggled to develop the program, a process which took 2 to 3 times as long as originally expected.

It is often said that Long Beach was able to develop this project because it is a charter city. While this was considered a key factor at that time, Long Beach's bond counsel now believes that general law cities too can use Special Assessment financing to fund retrofit programs (See: LOCAL GOVERNMENT FINANCING OPTIONS - SPECIAL ASSESSMENT DISTRICT).

EXHIBITS

- Sample letters to property owners sent over the course of the financing process.

CONTACTS

David Lewis	Rehabilitation Officer	(310) 590-6879
Richard Hilde	City Treasurer	(310) 590-6845
Tim Schaefer	Financial Advisor	(714) 545-1212
Masood Sohaili	Bond Counsel	(213) 669-6692